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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,794	09/29/2006	Claudio Vicentelli	2511-1062	6719
<div>465                      7590                      09/12/2008</div> <div>YOUNG &amp; THOMPSON</div> <div>209 Madison Street</div> <div>Suite 500</div> <div>ALEXANDRIA, VA 22314</div>				
EXAMINER				
MENDIRATTA, VISHU K				
ART UNIT		PAPER NUMBER		
3711				
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09/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/594,794

**Applicant(s)**

VICENTELLI, CLAUDIO

**Examiner**

Vishu K. Mendiratta

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 28 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Claim 28 refers to reference character 14' of drawing in the claim.

***Claim Rejections - 35 USC § 103***

2. Claims 29, 30, 31, 38-43, 45-48, 50-52 rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Marcil (4005866).

Claims 29, 45-47, 52: Yonkers teaches a magnetic game comprising a plurality of marked anchorage points (78) spaced apart by a pitch (7:11-22) on a playing surface (72), a plurality of bar shaped piece (21, 77) and ball shaped pieces (20), both bar shaped and ball shaped pieces removably connected to the board (Fig. 2), and both ball shaped and ball shaped pieces being anchorable to each other magnetically (3:15-20) forming a first and a second body assemblies (Fig. 11, 12). It can be clearly seen from Fig 12 that the lengths and diameters summed together clearly "correspond" to the pitch between anchorage points. Applicant may note that creating body assemblies is intended use limitation and do not further limit the claimed apparatus.

Yonkers teaches all limitations except that it does not teach board surface to magnetically adhere to the bars.

Marcil teaches game board material to be magnetic (abstract).

During the course of playing, game pieces are commonly seen to be disengaged from the game surface due to vibrations. In order to secure game pieces on the game board, it would have been obvious to use game board with magnetic material. One of ordinary skills in art at the time the invention was made would have suggested modifying game surface 72 to be magnetic to secure game pieces.

Applicant may note that limitations in parenthesis do not carry patentable weight in a claim.

Claims 30, 31: Yonkers pattern of disposition of holes can be treated/ called retinal or parallel (17).

Claim 38, 39: Yonkers teaches holes for anchorages (78) and markings broadly speaking.

Claims 40-41: Broadly speaking Yonkers surface 72 can be treated as different areas, and positions for that matter inside area and outside area.

Claim 42: Yonkers teaches supplemental game members (50, 51, 54, 60).

Claim 43: Yonkers teaches permanent magnet (2:63-64).

Claims 48,50: Yonkers teaches bar member having two magnets at ends spaces by intermediate member (43,44) and intermediate member being non-magnetic material.

Claim 51: Yonkers teaches ball diameters being bigger than bar diameter (Fig.3, 4,10)

3. Claims 29-33, 38, 40-43, 45-52 rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Marcil.

Claims 29: Yonkers teaches a magnetic game comprising a plurality of marked anchorage points (78) spaced apart by a pitch (7:11-22) on a playing surface (72), a plurality of bar shaped piece (21, 77) and ball shaped pieces (20), both bar shaped and ball shaped pieces removably connected to the board (Fig.2), and both ball shaped and ball shaped pieces being anchorable to each other magnetically (3:15-20) forming a first and a second body assemblies (Fig.11,12). It can be clearly seen from Fig 12 that the lengths and diameters summed together clearly "correspond" to the pitch between anchorage points. Applicant may note that creating body assemblies is intended use limitation and do not further limit the claimed apparatus.

Yonkers teaches all limitations except that it does not teach board surface to magnetically adhere to the bars.

Marcil teaches game board material to be magnetic (abstract).

During the course of playing, game pieces are commonly seen to be disengaged from the game surface due to vibrations. In order to secure game pieces on the game board, it would have been obvious to use game board with magnetic material. One of ordinary skills in art at the time the invention was made would have suggested modifying game surface 72 to be magnetic to secure game pieces.

Applicant may note that limitations in parenthesis do not carry patentable weight in a claim.

Claims 30-32: Applicant might argue that Yonkers does not teach so called reticular, parallel or circular hole-patterns. . Yonkers clearly teaches the shown pattern in Fig 12 as an example and demonstrates the possibility of geometric (7:24-25) and

modified configurations (7:66-8:3). In order to make the game attractive to potential users who like to make more intricate assemblies and complex prototypes, it would have been obvious to modify the hole pattern to any of the possible known geometric shapes. It would have been obvious to modify the hole-pattern pitch to create more different complex patterns. One of ordinary skill in art at the time the invention was made would have suggested modifying Yonkers hole-pattern including modifying pitches to create more complex and challenging assemblies including as claimed reticular, parallel or circular according to personal preference.

Claims 33, 45, 46, 47, 52: Examiner takes the position that the pitch as demonstrated by Yonkers can be treated as corresponding to the summation of length and diameters as shown in Fig.12. The applicant might however argue that Yonkers does not teach distance between two holes not being "equal" to summation of "one diameter" of ball and "one length" of bar. Yonkers clearly teaches the shown pattern in Fig 12 as an example and demonstrates the possibility of geometric (7:24-25) and modified configurations (7:66-8:3). In order to make the game attractive to potential users who like to make more intricate assemblies and complex prototypes, it would have been obvious to modify the hole pattern to any of the possible known geometric shapes. It would have been obvious to modify the hole pattern pitch to create more different complex patterns. One of ordinary skill in art at the time the invention was made would have suggested modifying Yonkers hole pattern including modifying pitches to create more complex and challenging assemblies. It is a known fact that hole-patterns with smaller pitches will be holding a much sturdier assembly as opposed to larger pitch

distances. One of ordinary skill in art at the time the invention was made would have suggested modifying pitch distances accordingly to support required assemblies.

Claim 38: Claim 38: Yonkers teaches holes for anchorages (78).

Claims 40-41: Broadly speaking Yonkers surface 72 can be treated as different areas, and positions for that matter inside area and outside area.

Claim 42: Yonkers teaches supplemental game members (50,51,54,60).

Claim 43: Yonkers teaches permanent magnet (2:63-64).

Claims 48-50: Yonkers teaches bar member having two magnets at ends spaces by intermediate member (43, 44) and intermediate member being non-magnetic material. Spring can be ferromagnetic.

Claim 51: Yonkers teaches ball diameters being bigger than bar diameter (Fig.3,4,10)

4. Claims 34-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Marcil and further in view of Eigen (4043559)

Yonkers teaches all limitations except that it does not teach a magnetic game board with magnet layered inside.

Eigen teaches a magnetic game board with sheets of magnet concealed within (1:25-35). It is often seen that the game components move from their position due to accidents or travel movements creating unwanted situations. In order to properly secure game components on game board it would have been obvious to provide magnetic base in the board. The art area of game board recognizes embodiments wherein magnetic sheets are placed underneath for the purpose as indicated above. One of

ordinary skill in art at the time the invention was made would have suggested providing magnetic, ferromagnetic or other commonly known material layers to create magnetic boards.

5. Claims 34-37,43-44 rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Morgan (5799943)

Yonkers teaches all limitations except that it does not teach a magnetic game board with magnet layered inside.

Morgan teaches a magnetic game board (7:31-43). It is often seen that the game components move from their position due to accidents or travel movements creating unwanted situations. In order to properly secure game components on game board it would have been obvious to provide magnetic base in the board. The art area of game board recognizes embodiments wherein magnetic sheets are placed underneath for the purpose as indicated above. One of ordinary skill in art at the time the invention was made would have suggested providing magnetic, ferromagnetic or other commonly known material layers to create magnetic boards.

6. Claim 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Morgan (5799943)

Yonkers teaches all limitations except that it does not clearly teach markings printed on game surface.

Morgan teaches printed markings on game surface (Fig.10 reference 4).

While some players can align game pieces on board areas others such as young children or physically challenged have difficulty in doing so. In order to make the game



playing easy for children and physically challenged, it would have been obvious to provide spaces duly marked by printing for proper identification. One of ordinary skill in art at the time the invention was made would have suggested providing printed and marked spaces for game playing easy for some players.

***Response to Arguments***

7. Applicant's arguments with respect to claims 29-52 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vishu K Mendiratta/  
Primary Examiner, Art Unit 3711

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

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